IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.933 OF 2005.

Ramhari D. Gaikwad ..Petitioner

versus

Vithal V.Gaikwad
& Others ..Respondents.

Mr.Warunjikar for the petitioner

None for the respondent.

Coram : S.R.Sathe, J.
Dated : 25th January, 2007

P.C.

1. Heard learned Advocate for the Petitioner. Advocate for the respondent absent.

2. Perused the impugned order. It is clear that in order to determine the real controversy between the parties the proposed amendment was essential. Moreover, it would not have taken away any valuable right in favour of the defendant. In such circumstances, the learned trial Judge ought to have allowed the amendment application. Hence, the order passed on 6.11.2004 is set aside. Amendment is allowed subject to cost of Rs.3000/- to the defendant. The petitioner to deposit the cost in the trial court within two weeks from today and

carry out the amendment immediately, failing which the petitioner will not be entitled to carry out the amendment.

3. In the event of plaintiff carrying out the amendment as permitted above, defendant is entitled to file additional written statement if any in respect of the amended plaint.

(S.R.Sathe, J.)